

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PHOTOFLEX.COM,  
Plaintiff,

v.

AMVONA.COM,  
Defendant.

No. C 04-3715 JSW (JL)

**ORDER Granting in part Defendant's  
Motion to Compel (Docket # 63)**

**Introduction**

All discovery in this case has been referred by the district court (Hon. Jeffrey S. White) as provided by 28 U.S.C. §636(b) and Civil Local Rule 72. Before the Court is Amvona's Motion to Compel Further Responses to Interrogatories and to Compel the Production of Documents. (Dkt # 63). The Court is deciding the motion without oral argument as provided by Civil Local Rule 7-1.

In the interest of judicial economy, and to facilitate the resolution of this discovery dispute, the Court ordered all counsel involved with any of the motions to meet and confer as provided in this Court's Standing Order and provide to the Court a statement on the status of their disputes no less than two weeks from the issuance of the order. The parties

1 met and conferred by telephone, despite the Court's Standing Order that counsel meet and  
2 confer in person. They filed their joint statement as ordered by the Court.

### 3 **Discovery Dispute: Analysis and Order**

4 The parties were able to resolve the following discovery in dispute:

5 In light of the partial stay, Amvona withdrew Interrogatory No. 7 and Requests for  
6 Production Nos. 5, 17 and 20. Amvona also narrowed the following discovery to exclude  
7 matters related to the subject patent: Interrogatory Nos. 4 and 5. Request for Production  
8 No. 15.

9 The following discovery remains at issue: Interrogatory Nos. 1-6, 9-10; Request for  
10 Production Nos. 1-4, 6-16 and 21-22.

11 Photoflex agreed to provide some amended responses but Amvona observes that it  
12 made the same promise in the April 2006 opposition. The Court hereby orders that any  
13 amended responses be served on or before August 30, 2006.

14 Amvona contends that Photoflex has not produced verified copies of the images at  
15 issue. Photoflex agrees to supplement a response listing all the images currently known to  
16 be at issue by Bates-Stamped Number which it previously identified by informal letter to  
17 Amvona's counsel. The Court hereby orders Photoflex to produce this response on or  
18 before August 30.

19 Photoflex shall respond to Interrogatories 4, 6, 9 and 10 and Requests for  
20 Production of Documents Nos. 4, 6, 7, 8, 9, 10, 11, 12, 14, 15, 21 and 22 with financial  
21 information sufficient to show how their damages claims were calculated or other evidence  
22 that would allow Amvona to test the damage claims, as provided by Rule 33 and 34,  
23 Federal Rules of Civil Procedure, by either narrative response or production of documents  
24 as provided by FRCP 33(d). Photoflex shall also attribute its damages to either the now-  
25 stayed patent claim or the other remaining claims.

26 Photoflex shall also respond to document requests relevant to whether the inventor  
27 met the statutory time requirements for filing the patent at issue (Request Nos. 16 and 19).  
28

1 Photoflex shall produce documents in response to Amvona's Request No. 14. It is  
2 not a valid objection that Photoflex may also have copies of these documents.

3 All compliance shall be due on or before August 30, 2006.

4 IT IS SO ORDERED.

5 DATED: August 18, 2006

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8   
JAMES LARSON  
Chief Magistrate Judge